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10/726,999

12/03/2003

Marco Julio Barrera

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EXAMINER

ANDERSON, FOLASHADE

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/726,999	Applicant(s) BARRERA, MARCO JULIO	
	Examiner FOLASHADE ANDERSON	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-79 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-79 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the first non-final office action in response to Applicant's submission filed on 12/03/2003. Currently, claims 1-79 are pending.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: item 100 of figure 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The lengthy specification and drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Specification

3. The disclosure is objected to because of the following informalities: line 8 of page 24 states "In step 540, retrieval of is scheduled with customer". It appears as if a word is missing from the sentence in that it is not clear what is retrieved.

Appropriate correction is required.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

4. Claim 44 is objected to because of the following informalities: Applicant uses a semicolon at the end of the limitation which implies limitation would continue with another limitation however no such textual a potion was submitted with regards to this claim. For the purpose of examination the Examiner will assume this is a typo and the punctuation should be a period. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 33-41

Claim 33 is rejected as being a single means type claim which does not limit the breadth of the claimed invention this claim covers every conceivable structure (means) for achieving the stated property while the specification discloses at most only those known to the inventor, see MPEP 2164.08 (a).

Claims 34-41 depend from claim 1 and therefore suffer similar deficiencies. Correction is required.

Claims 42-49

Claim 42 is rejected because the specification, while being enabling for receiving and utilizing, does not reasonably provide enablement for execution of the instruction in a computing environment. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to receiving and utilizing of the information the invention commensurate in scope with these claims.

Claims 43-49 depend from claim 42 and therefore suffer similar deficiencies. Correction is required.

Claims 51-59

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Claim 51 is rejected as being a single means type claim which dose not limit the breadth of the claimed invention this claim covers every conceivable structure (means) for achieving the stated property while the specification discloses at most only those known to the inventor, see MPEP 2164.08 (a).

Claims 52-59 depend from claim 51 and therefore suffer similar deficiencies. Correction is required.

Claims 62 and 63

Claim 62 is rejected as being a single means type claim which dose not limit the breadth of the claimed invention this claim covers every conceivable structure (means) for achieving the stated property while the specification discloses at most only those known to the inventor, see MPEP 2164.08 (a).

Claim 63 depends from claim 62 and therefore suffers similar deficiencies. Correction is required.

Claims 65-69

Claim 65 is rejected as being a single means type claim which dose not limit the breadth of the claimed invention this claim covers every conceivable structure (means) for achieving the stated property while the specification discloses at most only those known to the inventor, see MPEP 2164.08 (a).

Claims 66-69 depend from claim 65 and therefore suffer similar deficiencies. Correction is required.

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6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12

Claim 1 is rejected for failing to point out what is encompassed in the term **“computerizing”** per the specification the term could be the act of entering information into a computer or the computer program which replaces some aspect of a manual process.

Claims 2-12 depend from claim 1 and therefore suffer similar deficiencies. Correction is required.

Claim 5

Claim 5 is rejected for failing to point out who or what is enacted in **“comparing”** per the specification the comparing could be performed either automatically or manually and entered in a computerized system.

Claim 6-12

Claim 6 is rejected because it is unclear the intent of the **“adjusting the ammunition allocations to reflect the ammunition requirements and the ammunition inventories”**. This claim can be interpreted to mean that the adjusted allocation is just the inventory on hand or the adjusted allocation could be the total requirement including the inventory on hand.

Claims 7-12 depend from claim 6 and therefore suffer similar deficiencies. Correction is required

Claim 10-12

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Claim 10 is rejected for to point out who or what is enacted in “**distributing**” per the specification the term appears to mean the physical distribution of ammunition. Further this claim is rejected as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: it is not clear how one of ordinary skill in the art would complete this step relation to the computerizing of claim 1.

Claims 11 and 12 depend from claim 10 and therefore suffer similar deficiencies.

Correction is required

Claim 15-32

Claim 15 is reject because as recited it is directed to software, non-structural, not associated with in structure of the system. Simply reciting software without providing some detail about the means to accomplish the function is not enough to allow one of ordinary skill to perceive the bounds of the invention

Claims 16-32 depend from claim 15 and therefore suffer similar deficiencies. Correction is required

Claims 23-32

Claim 23 is rejected as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: The claim is directed towards the old and well known technique of accounting for interchangeable parts however the essence of the methods is directed to computerizing and determining as stated in claim 1. This step

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produces no result nor does it direct one of ordinary skill in the art the without undue extermination as to the purpose of determining the part interchangeability.

Claims 24-32 depend from claim 23 and therefore suffer similar deficiencies. Correction is required

Claims 35-41

Claim 35 is directed toward software however the statutory class of the claim is a system as such this claim does not associate the software with a structure as required in the system type claim. Simply reciting software without providing some detail about the means to accomplish the function is not enough to allow one of ordinary skill to perceive the bounds of the invention

Claims 36-41 depend from claim 35 and therefore suffer similar deficiencies. Correction is required

Claims 60-63

Claim 60 is directed toward software however the statutory class of the claim is a system as such this claim does not associate the software with a structure as required in the system type claim. Simply reciting software without providing some detail about the means to accomplish the function is not enough to allow one of ordinary skill to perceive the bounds of the invention

Claims 61-63 depend from claim 60 and therefore suffer similar deficiencies. Correction is required

Claims 65-69

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Claim 65 is rejected as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claims 64-69 depend from claim 65 and therefore suffer similar deficiencies. Correction is required.

Claims 70-73

Claim 70, steps c and d, are directed toward forecasting and software however the statutory class of the claim is an apparatus as such this claim does not associate the forecasting and software steps with a structure as required in an apparatus type claim. Simply reciting software without providing some detail about the means to accomplish the function is not enough to allow one of ordinary skill to perceive the bounds of the invention

Claims 71-73 depend from claim 70 and therefore suffer similar deficiencies. Correction is required

Claims 74-79

Claim 74 is It is not clear how the step of consolidating is preformed in the apparatus since there is no connection to computer executable code

Claims 75-79 depend from claim 74 and therefore suffer similar deficiencies. Correction is required

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-12

Claim 1 is rejected based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus.

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Claims 2-12 depend from claim 1 and therefore suffer similar deficiencies. Correction is required.

Claim 13 is rejected based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus.

Claims 14-32 depend from claim 15 and therefore suffer similar deficiencies. Correction is required.

Claims 42-49

Claim 42 the claimed invention is directed to non-statutory subject matter. When nonfunctional descriptive material, **instructions**, is recorded on a computer readable medium it is not statutory since no requisite functionality is present to satisfy the practical application requirement, see MPEP 2106.01.

Claims 41-49 depend from claim 42 and therefore suffer similar deficiencies. Correction is required.

Claim 64

Claim 64 the claimed invention is directed to a method and computer readable. It is not clear which statutory class the subject matter belongs. Further if Applicant intends this claim to be a method type claim the rejection still stands in regards to this claim based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is

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being transformed, for example by identifying the material that is being changed to a different state. Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus.

Claims 74-79

Claim 74 the claimed invention is directed to non-statutory subject matter. When nonfunctional descriptive material, **instructions**, is recorded on a computer readable medium it is not statutory since no requisite functionality is present to satisfy the practical application requirement, see MPEP 2106.01.

Examiner's Note:

In light of the afore mentioned deficiencies under 35 USC 101 and 112 art has been applied in the rejection of the instant application's claims as best understood by the Examiner to the Applicant's claimed invention.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claims 1 and 2 are rejected under 35 U.S.C. 102(a) as being anticipated by Ross (Ammunition Accounting and Management Below Retail, Jan. 2002).

Claim 1

Ross teaches **a method of managing ammunition for military unit training events, said method comprising the step of: computerizing the allocation and logistics for ammunition requirements of the military unit training events** (p. 12, TAMIS-R is an Army managed system that collects and process training ammunition requirements, authorizations, expenditures and related data).

Further the limitation **“for ammunition requirements of the military unit training events”**. As per MPEP 7.37.09: a recitation of the intended use of the claimed

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invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use it meets the claim.

Claim 2

Ross teaches **receiving forecasts of the training events** (p. 12, TAMIS-R is an Army managed system that collects and process training ammunition requirements, where the Examiner understands the requirements to be the input for the real time forecast mentioned in the same paragraph of Ross).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross (Ammunition Accounting and Management Below Retail, Jan. 2002) in view of Lidow (US Patent 7,003,474 B2).

Claim 3

Ross does not expressly teach **determining the ammunition requirements for the training events**. However this features is implied in the step of collecting ammunition requirements (pg. 12)

Lidow teaches the server my extrapolate forecasts based on expected demand and historical data (col. 13, lines 40-44) which is analogous to **determining the ammunition requirements for the training events**.

It would have bee obvious to one of ordinary skill in the art at the time the invention was made to use the analogous teaching of Lidow in the invention of Ross to ensure that the step of determining is not a guess but grounded in past experiences.

Examiner's Note:

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The Examiner understands that the instant application is directed to the ammunition support activities for a training exercise. Give the broadest reasonable interpretation this activity is analogous to the example of Lidow in that ammunition support is a specific form of supply change management. In that the ammunition of the instant application are the equivalent of a supply order and the training event is any activity for which the supply order with support.

Claim 4

Ross teaches the processing of training requirements (pg. 12) which implies allocation however the feature is not expressly teach the **allocating the ammunition for the training events.**

Lidow teaches the instruction indicate how the order is to be broken down and re-assembled in the exact quantities required by the specific customer (col. 5 lines 64-66) which is analogous to **allocating the ammunition for the training events.**

Claim 5

Ross is silent on **comparing the ammunition requirements with available ammunition inventories.**

Lidow teaches determining if demand if customer demands exceed supply (col. 6, lines 28-29) which is analogous to **comparing the ammunition requirements with available ammunition inventories.**

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the analogous teaching of Lidow in the invention of Ross to allow time to provide solutions if demand exceeds supply.

Claim 6

Ross is silent on the **adjusting the ammunition allocations to reflect the ammunition requirements and the ammunition inventories.**

Lidow teaches the instruction indicate how the order is to be broken down and reassembled in the exact quantities required by the specific customer (col. 5 lines 64-66). However Lidow is silent as to whether or not the order break down takes current inventory levels in to consideration thus Lidow is also silent on **adjusting the ammunition allocations to reflect the ammunition requirements and the ammunition inventories.**

Official notice is taken that it was old and well known in the art of supply chain management that when an order is received to allocate the available inventory to an order and then show the portion of the order not allocated as a need.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the old and well known technique of supply chain order management in the invention of Ross to minimize erroneous stock levels.

Claim 7

Ross is silent on **requesting ammunition from supplier organizations for the training events.**

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Lidow teaches a specific order is released to the supplier (col. 12, lines 9-10) which is analogous to **requesting ammunition from supplier organizations for the training events.**

It would have been obvious to use the teachings of Lidow in the invention Ross to facilitate the processing of data related to training requirements.

Claim 8

Ross teaches **approving the ammunition allocations** (pg. 12, the Examiner understands that within the context of Ross the authorization implies that it is directed towards allocation).

12. Claims 9-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross (Ammunition Accounting and Management Below Retail, Jan. 2002) and Lidow (US Patent 7,003,474 B2) as applied above and in further view of Pure & Natural Diaper Service (www.seattlediaper.com, published 02/02/2002). Herein referred to as Pure.

Claim 9

Ross and Lidow are silent on **including ammunition supplies from the supplier organizations into the ammunition inventories.**

Pure teaches the deliver of fresh diaper to be combined with the inventory of clean diapers at home to equal a full order (pg. 4, see diaper count) which is analogous to **including ammunition supplies from the supplier organizations into the ammunition inventories.**

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Pure in the invention of Ross to have an accurate account of the supplies in relation to the request.

Claim 10

Ross is silent on the **distributing the approved ammunition allocations to user level units.**

Lidow teaches the transportation of products from suppliers to customers (col. 22, lines 16-18) which is analogous to **requesting ammunition from supplier organizations for the training events.**

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Lidow in the invention of Ross to facilitate the processing of training ammunition requirements.

Claim 11

Ross is silent on **making an accounting for physical distribution of the ammunition and its associated packaging material.**

Lidow teaches the server can monitor the flow of products (col. 12, line 52) which is analogous to **making an accounting for physical distribution of the ammunition and its associated packaging material.**

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Lidow in the invention of Ross to facilitate the processing of training ammunition requirements.

Claim 12

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Ross and Lidow are silent on **the step of: returning residue from the ammunition and the packaging material for recycling.**

Pure teaches the collection, cleaning and reuse of diapers (pg. 3, diaper pick up & delivery).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Pure in the invention of Ross to have an accurate account of the supplies and allow for the reuse of packing material.

Claims 13-79 are similar to claims 1-12 for example: claim 13 is a combination of claims 1 and 3. As such claims 13-79 are rejected for substantially the same reason given above with regards to claims 1-12.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lenzini (Anticipatory logistics: The Army's answer to supply chain management, published Sept/Oct 2002) teaches the supply chain management approach in the field of military supplies. Wang et al (US Publication 2005/0144056 A1) capacity planning based on historical data. Scheer (US Patent 7,212,976 B2) teaches order fulfillment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FOLASHADE ANDERSON whose telephone number is (571)270-3331. The examiner can normally be reached on Monday through Thursday 8:00 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

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free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Folashade Anderson/
Examiner, Art Unit 3623

/Beth Van Doren/
Supervisory Patent Examiner, Art Unit 3623